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PTO/SB/17 (10-08)

Approved for use through 06/30/2010. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

**FEE TRANSMITTAL**  
**For FY 2009**☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 2875

**Complete if Known**

Application Number	07/011,024
Filing Date	02-05-1987
First Named Inventor	DALE E. FIENE
Examiner Name	JILL JACKSON
Art Unit	2608
Attorney Docket No.	

**RECEIVED**

OCT 09 2008

**OFFICE OF PETITIONS****METHOD OF PAYMENT (check all that apply)**☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_☒ Deposit Account Deposit Account Number: 502261 Deposit Account Name: Neal, Gerber & Eisenberg

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	330	165	540	270	220	110	
Design	220	110	100	50	140	70	
Plant	220	110	330	165	170	85	
Reissue	330	165	540	270	650	325	
Provisional	220	110	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	52	26
Each independent claim over 3 (including Reissues)	220	110
Multiple dependent claims	390	195

<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
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- 20 or HP =	x	=
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HP = highest number of total claims paid for, if greater than 20.

<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
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- 3 or HP =	x	=
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HP = highest number of independent claims paid for, if greater than 3.

<u>Multiple Dependent Claims</u>
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<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
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**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$270 (\$135 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
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- 100 =	/ 50 =	(round up to a whole number) x	=
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**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Fee Deficiencies: Filing Fee (\$920), Extension (2 month) (\$415), Petition to

Other (e.g., late filing surcharge): Withdraw Abandonment (\$540), Certificate of Correction (\$100), Issue Fee (\$900)**Fees Paid (\$)**

2875\*

**SUBMITTED BY**

Signature	/Robert E. Browne/	Registration No. (Attorney/Agent) 26,150	Telephone 312-269-8000
Name (Print/Type)	Robert E. Browne		Date 10/2/2008

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

\*The fee deficiencies are for the difference between small entity and large entity

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PATENT & TRADEMARK OFFICE

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# FEE TRANSMITTAL

## For FY 2009

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Examiner Name JILL JACKSON  
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Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$) Fee Paid (\$)

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Other (e.g., late filing surcharge): Withdraw Abandonment (\$540), Certificate of Correction (\$100), Issue Fee (\$900)

2875\*

#### SUBMITTED BY

Signature	/Robert E. Browne/	Registration No. (Attorney/Agent) 26,150	Telephone 312-269-8000
Name (Print/Type)	Robert E. Browne		Date 10/2/2008

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OCT 09 2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor Patent of: Dale E. Fiene

Examiner: Jackson, Jill **OFFICE OF PETITIONS**

Patent Number: 4,972,181

TC Art Unit: 2608

Serial No.: 07/011,024

Issue Date: November 20, 1990

Filing Date: February 5, 1987

Title: A/C POWERED SMOKE DETECTOR WITH  
BACKUP BATTERY SUPERVISION CIRCUIT

Docket No.:

**SUBMISSION OF FEE DEFICIENCY UNDER 37 C.F.R. § 1.28(c)**

Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

10/08/2008 DALLEN 00000006 502261 07011024

01 FC:1461 2765.00 DA

This paper submits \$2,765 in payment of the total shown below for the potential erroneous payment of fees as a small entity for the above-identified application.

Enclosed is the Declaration of Robert E. Browne supporting this submission. It is believed that entitlement to small entity status was originally claimed in good faith and payment of small entity fees as the filing fee, the issue fee, extension fee, correction fee and petition fee in the above patent were without any intent to deceive the Patent and Trademark Office. However, in the event that facts subsequently come to light showing that the above identified application was not originally entitled to small entity status, this submission makes up the difference in all fees paid as a small entity beginning with the filing of the application.

The following table provides a detailed breakdown of the fees covered by this submission pursuant to 37 C.F.R. § 1.28(c)(2)(ii).

Date Fee Paid	Type of Fee	Current Large Entity Fee (A)	Amount Originally Paid (B)	Amount of Deficiency (A) – (B)
2/5/87	Filing	\$ 810	\$170	\$ 640
3/4/88	2 Month Extension	\$ 460	\$ 75	\$ 385
6/5/90	Petition to Withdraw Holding of Abandonment *	\$ 510	-0-	\$ 510
12/14/90	Request for Certificate of Correction	\$ 100	-0-	\$ 100
6/5/90	Issue	\$1,440	\$310	\$1,130

Total = \$2,765

\*This title was adopted by the USPTO for a paper originally filed as a Petition to Revive An Unintentionally Abandoned Application. There is no Petition similar to a Petition to Withdraw under present USPTO rules. Since the abandonment was due to a file lost by the USPTO, we have paid a Petition for Unavoidable Delay fee, but since no fee was assessed at the time, it may be unnecessary with this Petition. If so, we ask that it be refunded.

The Commissioner is also authorized to charge any fee deficiency or credit overpayment to Deposit Account No. 502,261. If there are any questions upon receipt hereof, please telephone the Patentee's undersigned attorney.

Respectfully submitted,

Dated: October 2, 2008

By:



Robert E. Browne, Esquire  
Neal Gerber & Eisenberg, LLP  
2 N. La Salle Street, Suite 2200  
Chicago, IL 60602  
312-269-5225

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

**Certificate of Mailing under 37 CFR 1.8**

I hereby certify that the following correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

- 1) Fee Transmittal (in duplicate);
- 2) Submission of Fee Deficiency Under 37 C.F.R. 1.28(c); and
- 3) Declaration of Robert E. Browne.

on October 2, 2008  
Date

Signature

Marianne A. Hall

Typed or printed name of person signing Certificate

312-269-8000

Registration Number, if applicable

Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Patent of: Dale E. Fiene

Examiner: Jackson, Jill

Patent Number: 4,972,181

TC Art Unit: 2608

Issue Date: November 20, 1990

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Docket No.:

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**OFFICE OF PETITIONS**

**DECLARATION OF ROBERT E. BROWNE**

I, Robert E. Browne, hereby declare as follows:

1. I am a partner in the law firm of Neal Gerber & Eisenberg, LLP in Chicago, Illinois and am admitted to practice before the Supreme Court of Illinois. I am also registered to practice before the U.S. Patent and Trademark Office as Registration No. 26,150. I have specialized in patent and trademark law since 1971.

2. On February 5, 1987, while a partner at Wallenstein, Wagner, Hattis, Strampel and Aubel, in Chicago, I represented Fyrnetics, Inc. and supervised the filing of the above identified application in the name of Dale Fiene, who I knew to be an employee of Fyrnetics, Inc.

3. I have been aware since before this application was filed, and at the time of filing, that the U.S. Patent and Trademark Office ("USPTO") permits an applicant to pay reduced fees if it qualifies as a "small entity" by virtue of having no more than 500 employees. Because I believed that Mr. Fiene had an obligation to assign the application to his employer, Fyrnetics, Inc., I believe that I would have enquired at that time, as was my customary practice, whether

Fyrnetics had more than 500 employees. I am further certain that I was either told that it did not or that I knew from my own observation that Fyrnetics did not have 500 employees. In particular, Fyrnetics was housed in a small, one-story building in Elgin, Illinois, outside of Chicago, which had limited office space in the front, laboratory and test facilities in the center and storage space in the rear.

4. Fyrnetics appeared to operate independently with its own manager, employees and sales force. I also knew that Fyrnetics filed for or obtained and owned other U.S. patents in its name at this time.

5. The above application was subsequently assigned to Fyrnetics, Inc., by a document recorded in the USPTO on February 13, 1988.

6. On the basis of my knowledge at the time of filing, I believed that Fyrnetics qualified for small entity status under the USPTO Rules and that it had no obligation to license or assign the patent application or the invention.

7. I believe I also knew at that time that Fyrnetics had been acquired by, and was a subsidiary of, Management Investment and Technology, Ltd. ("MIT"), a Hong Kong company. My limited contacts with MIT indicated to me that MIT had very few employees.

8. I did not have any knowledge that MIT was a large entity under the USPTO Rules at any time during my involvement with this application.

9. On June 5, 1989, the application received a Notice of Allowance and Issue Fee Due from the USPTO.

10. On July 31, 1989, I submitted the issue fee and formal drawings for the application.

11. On May 19, 1990, we received a Notice of Abandonment for failure to pay the issue fee. Upon investigation, we determined that the application file, drawings and our prior issue fee submission had been lost by the USPTO. Thereafter, on June 13, 1990, we filed a Petition to Revive an Unintentionally Abandoned Application with a Declaration in support, which was granted by the USPTO on August 30, 1990. The USPTO decision allowed the Petition fee to be refunded. With our Petition we enclosed another check in the amount of \$310.00 as the issue fee for a small entity.

12. Fyrnetics, Inc. executed an Assignment on April 19, 1990 to MIT which was recorded in the USPTO on June 11, 1990 after the issue fee was paid a second time.

13. To the extent my belief about the size of MIT and Fyrnetics were erroneous and the filing fee, issue fee and other fees paid as a small entity were erroneous, I can state that such payments were made in good faith without any intent on my part to deceive the USPTO. All fees paid by me in small entity amounts were paid in good faith also without any intent on my part to deceive the USPTO. Further, the failure to notify the USPTO of any loss of entitlement to small entity status was likewise without any intent to deceive the USPTO.

I hereby declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true and further that the statements were made with the knowledge that willful false statements are punishable by fine or



Patent No. 4,972,181

Submission Of Fee Deficiency Under 37 C.F.R. § 1.28(c)

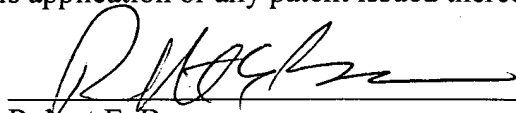
Page 4 of 4

imprisonment or both under § 1001 of Title 18 of the United States Code, and that such willful

false statements may jeopardize the validity of this application or any patent issued thereon.

Date:

Oct 2, 2008



Robert E. Browne

Reg. No. 26,150